

**AGENDA FOR THE  
REGULAR COUNCIL MEETING OF  
MONDAY, JULY 12, 2004 AT 2:00 P.M.  
CITY ADMINISTRATION BUILDING  
COUNCIL CHAMBERS – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

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- ITEM-1:                   ROLL CALL.
- ITEM-10:                INVOCATION.
- ITEM-20:               PLEDGE OF ALLEGIANCE.

**=== LEGISLATIVE SCHEDULE ===**

Special Orders of Business

- ITEM-30:               In the Matter of Information Report and Presentation from the San Diego County Treasurer – Tax Collector on the Proposed Content and Redesign of Property Tax Bills.
- ITEM-31:               Urban Corps of San Diego Month.  
COUNCILMEMBER ZUCCHET’S RECOMMENDATION: Adopt the resolution.
- ITEM-32:               Harold K. Brown Day. (Cont. from June 28, 2004, Item S401.)  
COUNCILMEMBER LEWIS’ RECOMMENDATION: Adopt the resolution.
- ITEM-33:               Jewish Community Foundation Day.  
COUNCILMEMBER FRYE’S RECOMMENDATION: Adopt the resolution.
- ITEM-34:               Approval of Council Minutes.

### **NON-AGENDA PUBLIC COMMENT**

Non-agenda public comment is taken on Tuesday pursuant to the San Diego Municipal Code Section 22.0101.

### **CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT**

In accordance with the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meeting, adopted on March 29, 2004, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the **Special Closed Session Agenda for Monday, July 12, 2004, scheduled to commence immediately following the conclusion of the regular open session meeting that day. This Special closed session may continue into Tuesday, July 13, 2004.**

**NOTE:** Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the closed session item number from the Closed Session Docket on the speaker slip. Speakers may speak “in favor” or “in opposition” to the subject.

#### **Information Item - No Action Required - The City Council shall:**

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in closed session 4) Refer matters discussed to closed session.

### **REQUESTS FOR CONTINUANCE**

The Council will now consider requests to continue specific items.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items

- ITEM-50:           Transfer of Non-Exclusive Solid Waste Collection Franchise Agreement.  
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which  
was introduced on 6/21/2004.
- ITEM-51:           Adjustment of the City Treasurer's Department Fines and Penalties.  
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which  
was introduced on 6/28/2004.
- ITEM-52:           Fourth Amendment to Development Agreement with Catellus  
Development Corporation. Columbia Subarea of the Centre City  
Redevelopment Project. (Dist. 2)  
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which  
was introduced on 6/29/2004.
- ITEM-100:          Appropriate Funds to Upgrade Underground Storage Tank (UST).  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-101:          Four actions related to Annual Special Tax Levy – Community Facilities  
Districts No. 1, No. 2, No. 3 and No. 4. Black Mountain Ranch, Peninsula  
and Miramar Ranch North Community Areas. (Dists. 1, 2, and 5)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolutions.
- ITEM-102:          San Diego River Park – Acceptance of Maintenance and Management  
Funds. Mission Valley Community Area. (Dist. 6)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-103:          Accept Private and Developer Funds from Fairbanks Highlands LLC for  
Construction of a Temporary Traffic Signal and Street Lighting at  
Caminito Vistana and Carmel Valley Road. Torrey Highlands  
Community Area. (Dist.1)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items (Continued)

- ITEM-104: Request Additional Funding for Sewer and Water Group 2000 for Final Contract Change Orders. Centre City, Uptown, Greater North Park, and Mountain View Neighborhood Community Areas. (Dists. 2, 3, and 4)  
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 5/12/2004, NR&C voted 3 to 0 to approve.
- ITEM-105: Lease Agreement with 7<sup>th</sup> & Broadway Partners, LLC, 901 7<sup>th</sup> Avenue Partners, LLC, and 707 Weber, LLC, for Storage of Library Materials at 707 Broadway. Centre City Community Area. (Dist. 2)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-106: Second Amendment to the Retainer Agreement with Latham & Watkins for Outside Counsel Services. Otay Mesa Community Area. (Dist. 8)  
CITY ATTORNEY'S RECOMMENDATION: Adopt the resolution.
- ITEM-107: Amendment to the Retention Agreement with KPMG LLP to Continue Audit of the City's Fiscal Year 2003 Financial Statements  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-108: Lease Agreement with San Diego State University Foundation (SDSUF) for the Development, Operation, and Maintenance of a Laboratory Research Facility. Peninsula Community Area. (Dist. 2)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-109: Drainage Easement Vacation within a Portion of Parcel 2 of Parcel Map 18040. Mission Valley Community Area. (Dist. 6)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-110: Amended Map of Nobel Research Park Including Sewer, Drainage, General Utility, and Access Easement Vacations. Located northwesterly of Nobel Drive and Judicial Drive. University Community Area. (Dist. 1)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items (Continued)

- ITEM-111: Parcel Map W.O. No. 421268 and Building Restricted Easement Vacation. Black Mountain Ranch Community Area. (Dist. 1)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-112: General Utility and Access Easement Vacations in Amended Map of Black Mountain Ranch Unit No. 1. Black Mountain Ranch Community Area. (Dist. 1)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-113: Via Alicante Storm Drain Replacement. University Community Area. (Dist. 1)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-114: Appointments to the Sustainable Energy Advisory Board.  
MAYOR MURPHY'S RECOMMENDATION: Adopt the resolution.
- ITEM-115: Excusing Deputy Mayor Toni Atkins from Attending the Regularly Scheduled Rules Committee Meeting of July 14, 2004.  
DEPUTY MAYOR ATKINS' RECOMMENDATION: Adopt the resolution.
- ITEM-116: Bridget J. Wilson Day.  
DEPUTY MAYOR ATKINS' RECOMMENDATION: Adopt the resolution.
- ITEM-117: Emilee Watts Day.  
DEPUTY MAYOR ATKINS' RECOMMENDATION: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items (Continued)

- ITEM-118: Two actions related to Amendment to the Undergrounding of Utilities 2003 Calendar Year Annual Allocation, and Calling for a Public Hearing: Tennyson Street from Chatsworth Boulevard to Willow Street. Midway Community Plan Area. (Dist. 2)  
CITY MANAGER'S RECOMMENDATION: Adopt the resolutions.
- ITEM-119: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (Dist. 8)  
TODAY'S ACTION IS: Adopt the resolution.
- ITEM-120: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region. (Dist. 8)  
TODAY'S ACTION IS: Adopt the resolution.
- ITEM-121: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).  
TODAY'S ACTION IS: Adopt the resolution.
- ITEM-122: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.  
TODAY'S ACTION IS: Adopt the resolution.

Adoption Agenda, Discussion, Committee Items

- ITEM-150: Two actions related to the Otay Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2005. Otay Mesa Community Area. (Dist. 8)  
LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:  
On 6/16/2004, LU&H voted 5 to 0 to approve the City Manager's recommendation.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Adoption Agenda, Discussion, Other Legislative Items

- ITEM-200:            Two actions related to Seventh and Eighth Supplementals to the Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium (Qualcomm Stadium) Between City of San Diego and San Diego Chargers. Mission Valley Community Area. (Dists. All)  
CITY MANAGER’S RECOMMENDATION: Introduce the ordinance in Subitem A and adopt the resolution in Subitem B.

Public Notices

- ITEM-250:            Notice of Pending Final Map Approval - Prado Terrace.
- ITEM-251:            Notice of Pending Final Map Approval – 4375 37<sup>th</sup> Street.
- ITEM-252:            Notice of Pending Final Map Approval – Spinnaker Point.
- ITEM-253:            Settlement of Property Damage Claim of Marilyn and Frank Wyatt.
- ITEM-254:            Submission of Ballot Proposals.
- ITEM-255:            Arguments Supporting or Opposing Propositions.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

**=== EXPANDED CITY COUNCIL AGENDA ===**



SPECIAL ORDERS OF BUSINESS

ITEM-30: In the Matter of Information Report and Presentation from the San Diego County Treasurer – Tax Collector on the Proposed Content and Redesign of Property Tax Bills.

(See letter from Dan McAllister dated 7/1/2004.)

SPECIAL ORDERS OF BUSINESS (Continued)

ITEM-31: Urban Corps of San Diego Month.

**COUNCILMEMBER ZUCCHET'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1396)

Recognizing and commending Urban Corps of San Diego;

Proclaiming July 2004 to be "Urban Corps Month" in the City of San Diego.

ITEM-32: Harold K. Brown Day.

(Continued from the meeting of June 28, 2004, Item S401, at the request of Councilmember Lewis, for further review.)

**COUNCILMEMBER LEWIS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1411)

Commending Harold K. Brown as Founder of the San Diego State University Center for Community Economic Development (CED) and for his years of leadership and excellent community economic development work throughout the City of San Diego and the surrounding region;

Proclaiming June 28, 2004 to be "Harold K. Brown Day" in the City of San Diego.

SPECIAL ORDERS OF BUSINESS (Continued)

ITEM-33: Jewish Community Foundation Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1386)

Proclaiming July 12, 2004 to be "Jewish Community Foundation Day" in the City of San Diego.

ITEM-34: Approval of Council Minutes.

**TODAY'S ACTION IS:**

Approval of Council Minutes for the meetings of:

06/07/2004

06/08/2004

**CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT**

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**Information Item - No Action Required - The City Council shall:**

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in closed session 4) Refer matters discussed to closed session.

**REQUEST FOR CONTINUANCE**

The Council will now consider requests to continue specific items.

**CONSENT ITEMS**

The following listed items are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (\*).

**ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION:**

Items 50, 51, and 52.

**RESOLUTIONS TO BE ADOPTED:**

Items 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, and 122.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING  
WITH THE READING AND ADOPTION:

\* ITEM-50: Transfer of Non-Exclusive Solid Waste Collection Franchise Agreement.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 6/21/2004. (Council voted 9-0):

(O-2004-141)

Approving the transfer of a non-exclusive solid waste collection franchise from Webco Sanitation to EDCO Disposal Corporation and authorizing the execution of a Class II Non-Exclusive Solid Waste Collection Franchise Agreement with EDCO Disposal Corporation (dba Webco Sanitation).

**NOTE:** 6 votes required pursuant to Section 103 of the City Charter.

\* ITEM-51: Adjustment of the City Treasurer's Department Fines and Penalties.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 6/28/2004. (Council voted 9-0):

(O-2004-147)

Amending the San Diego Municipal Code by amending Chapter 3, Article 1, Division 1, by amending Section 31.0131 and by amending Chapter 3, Article 1, Division 3, Section 31.0301, all relating to business regulations, business taxes, permits and licenses.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING  
WITH THE READING AND ADOPTION: (Continued)

\* ITEM-52: Fourth Amendment to Development Agreement with Catellus Development Corporation.

(Columbia Subarea of the Centre City Redevelopment Project. District-2.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 6/29/2004. (Council voted 9-0):

(O-2004-146)

Approving the fourth amendment to Development Agreement between the City of San Diego and Catellus Development Corporation.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

\* ITEM-100: Appropriate Funds to Upgrade Underground Storage Tank (UST).

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-12)

Authorizing the City Auditor and Comptroller, in accordance with the 2005 Annual Appropriation Ordinance, to amend the Fiscal Year 2005 Capital Improvement Program budget to increase CIP-33-084.0, Underground Hazardous Materials Storage Tanks, Fund No. 630221, Contributions from the General Fund, by the amount of \$45,283.85;

Authorizing the City Auditor and Comptroller to transfer the amount of \$45,283.85 from Police Department, General Fund No. 100, to Fund No. 630221, Contributions from the General Fund;

Authorizing the City Auditor and Comptroller to transfer the amount of \$13,049.24 within Fund No. 30244, from CIP-32-021.0, Environmental Services Department Operations Yard Improvements, Fund 41201, Waste Management CIP, to CIP-33-084.0, Underground Hazardous Materials Storage Tanks;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$58,333.09 from CIP-33-084.0, Underground Hazardous Materials Storage Tanks (\$13,049.24 from Fund No. 30244, CIP-32-021.0, Environmental Services Department Operations Yard Improvements, Fund 41201, Waste Management CIP, and \$45,283.85 from Fund No. 630221, Contributions from the General Fund), solely and exclusively, to provide funds for upgrading City operated fueling facilities.

**CITY MANAGER SUPPORTING INFORMATION:**

Senate Bill 989 (effective January 1, 2000) amended Chapter 6.7 of Division 20 of the Health and Safety Code to upgrade the regulations to better protect the ground and underlying aquifers from contamination by hazardous substances leaking from underground storage tanks (UST). SB 989 requires all USTs to be tested and certified to meet stringent environmental requirements.



ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-100: (Continued)

**CITY MANAGER SUPPORTING INFORMATION:** (Continued)

The Air Pollution Control District (APCD) has also modified their requirements for enhanced vapor recovery of gasoline vapors. The fueling systems at seven (7) Police Stations and at the Environmental Services Department's Operations Yard must be upgraded and repaired to meet these requirements.

The proposed resolutions will transfer, appropriate, and authorize the expenditure of \$58,333.09 for the purpose of upgrading the UST systems as described above. The resolutions will transfer \$13,049.24 from the Environmental Services Department Operations Yard Improvements, CIP-32-021.0, Fund 41201, and \$45,283.85 from Fund 630221, Contributions from the General Fund into the Underground Hazardous Materials Storage Tanks CIP-33-084.0, Fund 30244, CIP Construction Fund.

**FISCAL IMPACT:**

Funds are to be transferred in the amount of \$58,333.09 (\$13,049.24 from CIP-32-021.0, and \$45,283.85 from Fund 630221) into CIP-33-084.0, Underground Hazardous Materials Storage Tanks, Fund 41201. Funds will then be expended from CIP-33-084.0 in an amount not to exceed \$58,333.09.

Mendes/Heap/CH

Aud. Cert. 2401192.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-101: Four actions related to Annual Special Tax Levy – Community Facilities Districts No. 1, No. 2, No. 3 and No. 4.

(Black Mountain Ranch, Peninsula, and Miramar Ranch North Community Areas. Districts-1, 2 and 5.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-7)

Adoption of a Resolution of the City Council acting as the legislative body of Community Facilities District No. 1 (Miramar Ranch North) authorizing the Levy of Special Taxes for Fiscal Year 2004/2005.

Subitem-B: (R-2005-8)

Adoption of a Resolution of the City Council acting as the legislative body of Community Facilities District No. 2 (Santaluz) authorizing the Levy of Special Taxes within Improvement Area No. 1, Improvement Area No. 3, and Improvement Area No. 4, for Fiscal Year 2004/2005.

Subitem-C: (R-2005-9)

Adoption of a Resolution of the City Council acting as the legislative body of Community Facilities District No. 3 (Liberty Station) authorizing the Levy of Special Taxes within Improvement Area No. 1 and Improvement Area No. 2, for Fiscal Year 2004/2005.

Subitem-D: (R-2005-10)

Adoption of a Resolution of the City Council acting as the legislative body of Community Facilities District No. 4 (Black Mountain Ranch Villages) authorizing the Levy of Special Taxes for Fiscal Year 2004/2005.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-101: (Continued)

**CITY MANAGER SUPPORTING INFORMATION:**

The City Council has previously adopted resolutions and ordinances that established Community Facilities district No. 1 (Miramar Ranch North), Community Facilities District No. 2 (Santaluz), Community Facilities District No. 3 (Liberty Station), and Community Facilities District No. 4 (Black Mountain Ranch Villages). These actions authorized the issuance of limited obligation special tax bonds to finance the construction and acquisition of public infrastructure in or serving the districts, and authorized the levy of a special tax to pay annual debt service on each district's outstanding bonds, or to pay directly for the acquisition of public facilities. This City Council action would confirm the annual rates, apportionment, and total amount of special taxes to be levied and collected on taxable property within the boundaries of Community Facilities District No. 1, Community Facilities District No. 2, Community Facilities District No. 3, and Community Facilities District No. 4 for Fiscal Year 2005. Each year, the special tax levy is presented to the City Council for approval, in accordance with the Mello-Roos Community Facilities Act of 1982. The special taxes are calculated in accordance with each District's taxing formula, known as the Rate and Method of Apportionment of Special Taxes. The FY 2005 special tax rates are consistent with previous years, with the exception of a programmed 2% increase for Community Facilities District No. 2, pursuant to the taxing formula. Special taxes to be levied against taxable parcels of land within each district for the upcoming fiscal year are reflected in the reports submitted herewith. These special taxes will be billed and collected by the County of San Diego in the same manner as ordinary ad valorem property taxes. Monies received in the form of special taxes will be used to pay debt service on the outstanding bonds and/or pay directly for public facilities, maintain the appropriate balance in the reserve fund for each district, and pay costs incurred by the City in administering the districts.

**FISCAL IMPACT:**

No fiscal impact to the City will occur as a result of this City Council action. The annual special tax levy includes an administrative charge to reimburse the City for costs and expenses incurred on behalf of the districts.

Frazier/Vattimo/CW

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-102: San Diego River Park – Acceptance of Maintenance and Management Funds.

(Mission Valley Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-15)

Authorizing the City Manager to accept an endowment fee of \$36,400, from H.G. Fenton Company, for the continual management of the 2.5 acres of San Diego River Park property accepted by the Council pursuant to Resolution R-298738;

Authorizing the City Auditor and Comptroller to establish a separate, interest bearing account for the \$36,400;

Authorizing the City Manager to accept the additional \$50,000 for deposit into the San Diego River Endowment Fund to enhance and restore wildlife resources.

**CITY MANAGER SUPPORTING INFORMATION:**

By Resolution R-298738 adopted by the City Council December 8, 2003, the City was authorized to take title to a 2.5-acre parcel within the San Diego River Park area from the H.G. Fenton Company. As part of this acquisition, and a requirement of H.G. Fenton, a total of \$86,400 was to have been transferred to the City as an endowment for maintenance and management - \$36,400 for maintenance and management of that certain 2.5 acre parcel and \$50,000 to be deposited in the San Diego River Endowment Fund to enhance and restore wildlife resources within the San Diego River watershed. This resolution will authorize the acceptance of those funds.

**FISCAL IMPACT:**

None.

Herring/Griffith/BLM

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-103: Accept Private and Developer Funds from Fairbanks Highlands LLC for Construction of a Temporary Traffic Signal and Street Lighting at Caminito Vistana and Carmel Valley Road.

(Torrey Highlands Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-19)

Authorizing the City Auditor and Comptroller to accept \$71,817.50 of Private and Developer funds from Fairbanks Highlands LLC, per conditions of Tentative Map 88-1041, and deposit funds into the Private and Other Contributions Fund, Fund 63022;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2004 Capital Improvements Program by \$71,817.50 in CIP-68-010.0, Traffic Signals-Citywide, Fund 63022, Private and Other Contributions Fund;

Authorizing the appropriation and expenditure of \$71,817.50 from CIP-68-010.0, Traffic Signals-Citywide, Fund 63022, Private and Other Contributions Fund, for the construction of a temporary traffic signal at the intersection of Caminito Vistana and Carmel Valley Road;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

This project will install a temporary traffic signal at the intersection of Caminito Vistana and Carmel Valley Road in Torrey Highlands. The estimated cost for this project is \$71,817.50.

Fairbanks Highlands LLC has agreed to a contribution of \$71,817.50 as part of their fifty percent fair share contribution for the construction of a new traffic signal and street lighting system at Caminito Vistana and Carmel Valley Road. This was predicated on an estimated total project cost of \$143,635 for the construction of a permanent traffic signal when the intersection is built out per the community plan.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-103: (Continued)

**CITY MANAGER SUPPORTING INFORMATION:** (Continued)

The signal construction will be permanent on the fully-developed north side of the intersection. At the time the south side is developed, the developer will fund the additional signal work required to complete the traffic signal.

**FISCAL IMPACT:**

The total estimated project cost for the temporary traffic signal is \$71,817.50.

Mendes/Belock/PB

Aud. Cert. 2401201.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-104: Request Additional Funding for Sewer and Water Group 2000 for Final Contract Change Orders.

(See memorandum from Frank Belock, Jr. dated 5/5/2004. Centre City, Uptown, Greater North Park, and Mountain View Neighborhood Community Areas. Districts-2, 3, and 4.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-1398)

Approving the Final Change Order for Work Order Nos. 178461/184061, dated April 21, 2004, in connection with the contract between The City of San Diego and Orion Construction; and the changes therein set forth, amounting to a net increase in the contract price of \$202,883.48;

Approving the Final Change Order for Work Order Nos. 174801/184171, dated April 21, 2004, issued in connection with the contract between The City of San Diego and Orion Construction; and the changes therein set forth, amounting to a net decrease in the contract price of \$85,284.04;

Approving the Final Change Order for Work Order No. 173881, dated April 21, 2004, issued in connection with the contract between The City of San Diego and Orion Construction; and the changes therein set forth, amounting to a net increase in the contract price of \$112,376.60;

Approving the Final Change Order for Work Order Nos. 175351/184961, dated April 21, 2004, issued in connection with the contract between The City of San Diego and Orion Construction; and the changes therein set forth, amounting to a net decrease in the contract price of \$161,589.39;

Approving the Final Change Order for Work Order No. 173921, dated April 21, 2004, issued in connection with the contract between The City of San Diego and Orion Construction; and the changes therein set forth, amounting to a net increase in the contract price of \$274,183.56;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

## RESOLUTIONS: (Continued)

## \* ITEM-104: (Continued)

Authorizing the additional expenditure of an amount not to exceed \$540,329 from Water Fund 41500, CIP-73-083.0, Annual Allocation – Water Main Replacement (increase to Water and Sewer Group 537 in the amount of \$419,805, increase to Sewer and Water Group 690 in the amount of \$58,408, and increase to Sewer and Water Group 699 in the amount of \$62,116), and the reallocation of previously authorized expenditures from Sewer Fund 41506, CIP-44-001.0, Annual Allocation – Sewer Main Replacement (increase to Water and Sewer Group 537 in the amount of \$3,500, increase to Sewer Group 632 in the amount of \$16,489, increase to Sewer Group 633 in the amount of \$283,969, decrease to Sewer and Water Group 690 in the amount of \$134,349, and decrease to Sewer and Water Group 699 in the amount of \$169,609), solely and exclusively, for the purpose of funding the Final Contract Change Orders and engineering and related costs, provided the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the additional use of City Force work for an additional amount not to exceed \$265,000 from Water Fund 41500, CIP-73-083.0, Annual Allocation – Water Main Replacement (\$150,000 for Water and Sewer Group 537, \$75,000 for Sewer and Water Group 690, and \$40,000 for Sewer and Water Group 699) and \$392.85 from Sewer Fund 41506, Annual Allocation – Sewer Main Replacement (\$392.85 for Sewer Group 633), for a total amount not to exceed \$265,392.85, solely and exclusively, for additional construction services related to the Project;

Approving the additional expenditure of an amount not to exceed \$4,852 in property related costs from Sewer Fund 41506, Annual Allocation – Sewer Main Replacement, for Sewer Group 632.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 5/12/2004, NR&C voted 3 to 0 to approve. (Councilmembers Lewis, Frye, and Inzunza voted yea. Councilmembers Zucchet and Madaffer not present.)



ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-104: (Continued)

**SUPPORTING INFORMATION:**

Sewer and Water Replacement Group 2000 is part of the City of San Diego's continuing Annual Sewer and Water Main Replacement Program. Group 2000 consists of five sewer and water group jobs that are located in various parts of the City. This project includes replacement and rehabilitation of approximately 45,750 feet (8.7 miles) of 6, 8, 10-inch old and deteriorated sewer mains; abandoning 8,500 feet of 6-inch sewer mains in easements to be relocated in the public right-of-way; and replacement of 7,680 feet (1.45 miles) of 6, 8, 12, 16-inch water mains. This project includes replacement of 787 sewer laterals and installing 231 sewer replumbs. Re-routing the sewer main required additional trenching that reached 28 feet deep. This project includes the construction of 163 curb ramps and re-paving and slurry sealing of the impacted streets. The streets affected by construction operations within this project are: Upas Street, Georgia Street, Alabama Street, Robinson Avenue, Park Boulevard, Myrtle Street, Mississippi Street, Louisiana Street, Normal Street, El Cajon Boulevard, Polk Avenue, University Avenue, Bush Street, Pennsylvania Avenue, Redwood Street, Ocean View Boulevard, 40th Street, Hemlock Street, Teak Street, T Street, 38th Street, 37th Street, 36th Street, 35th Street, 16th Street, 13th Street, Tenth Avenue, and Eleventh Avenue as shown on the location maps.

These close out change orders are to compensate the contractor for material, labor, equipment, and adjustment of quantities to reflect the actual field measured amounts of improvements constructed which differed from the quantities shown on the bid items. A significant part of these change orders include restoring deteriorated streets beyond the original scope of work. Funds are requested to pay additional inspection and City Force work and to compensate the contractor for additional thick pavement removal and for additional restoration and improvement of the excessively damaged streets in the downtown area.

**FISCAL IMPACT:**

The total cost of these projects is \$18,549,107. Funding of \$18,008,778 was previously authorized by Council Resolutions R-295438 on September 10, 2001, R-296115 on February 25, 2002, and R-297561 on January 28, 2003. This request is authorizing additional expenditures of \$540,329 from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement.

Loveland/Belock/HR

Aud. Cert. 2401176.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-105: Lease Agreement with 7<sup>th</sup> & Broadway Partners, LLC, 901 7<sup>th</sup> Avenue Partners, LLC, and 707 Weber, LLC, for Storage of Library Materials at 707 Broadway.

(Centre City Community Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1204)

Authorizing the City Manager to execute a lease agreement with 7<sup>th</sup> & Broadway Partners, LLC, 901 7<sup>th</sup> Avenue Partners, LLC, and 707 Weber, LLC, for storage of library materials at a rental of \$963 until December 25, 2006, on the terms and conditions substantially as set forth in the Storage Lease Agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$3,852 from the Library Budget, Fund No. 100, Dept. 310, for FY 2004. Expenditures for rent for FY 2005 are contingent upon approval of the FY 2005 Budget by the Mayor and City Council.

**CITY MANAGER SUPPORTING INFORMATION:**

The Library has been leasing space at 707 Broadway since December 26, 2001 on the third floor and a portion of the B-2 basement level. The Library recently closed one of its locations. In doing so, additional storage space was immediately needed to relocate books that were stored at the closed location. Storage space was identified in the B-2 basement level of 707 Broadway directly across the hall from the Library's existing space. The Library will be expanding its basement space under the following basic terms:

TERM: Thirty-three (33) months and twenty-five (25) days commencing March 1, 2004, expiring December 25, 2006.

RENT: \$1.00 per square foot or \$963 per month. This rental rate is below market as compared to similar storage space in the area within high rise buildings that have been leasing at approximately \$1.10 per square foot.

USE: Book storage space for the City Library.

SIZE: Expansion storage space is approximately 963 square feet.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-105: (Continued)

**FISCAL IMPACT:**

\$3,852 will be paid from the Library's budget, Fund 100, Dept. 310, for FY 2004. Rent for FY 2005 is contingent upon City Council approval of the FY 2005 Budget.

Herring/Griffith/DLM

Aud. Cert. 2401047.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-106: Second Amendment to the Retainer Agreement with Latham & Watkins for Outside Counsel Services.

(Otay Mesa Community Area. District-8.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-22)

Authorizing a second amendment to the Retainer Agreement by and between the City of San Diego and Latham & Watkins, for legal services in Otay Acquisition v. City of San Diego, San Diego Superior Court Case No. GIC 753247, National Enterprise v. City of San Diego, San Diego Superior Court Case No. GIC 730011, and Border Business Park, Inc. v. City of San Diego, San Diego Superior Court Case No. 692794;

Authorizing the expenditure of an amount not to exceed \$750,000 from Liability Fund No. 81140, solely and exclusively, for the purpose of providing funds for the above agreement.

**SUPPORTING INFORMATION:**

An initial agreement in an amount not to exceed \$250,000 was authorized with Latham & Watkins for outside counsel to defend the City in the matters of Otay Acquisition v. City, S.D.S.C. Case No. GIC 753247; National Enterprises v. City, S.D.S.C. Case No. GIC 730011; and Border Business Park, Inc., v. City, S.D.S.C. Case No. 692794. A first amendment to that agreement was authorized by the City Council in an amount not to exceed an additional \$2.8 million. Additional services are now required, and an additional \$750,000 is required to fund the necessary services. The total contract will be in an amount not to exceed \$3,800,000. Approximately \$2.1 million of insurance proceeds has been received to help defray the cost of the representation.

Girard

Aud. Cert. 2500005.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-107: Amendment to the Retention Agreement with KPMG LLP to Continue Audit of the City's Fiscal Year 2003 Financial Statements.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-23)

Authorizing and directing the City Manager to execute an amendment to the retention agreement with KPMG for an additional amount not to exceed \$300,000, for a total contract amount not to exceed \$800,000 to Continue Audit of the City's Fiscal Year 2003 Financial Statements.

**CITY MANAGER SUPPORTING INFORMATION:**

On January 27, 2004, the City filed a voluntary financial disclosure concerning, in part, certain errors and correctible statements in the City's FY 2002 Comprehensive Annual Financial Report ("CAFR"). As a result, the FY 2003 CAFR has not been finalized and issued. The City Manager retained the firm of KPMG LLP to perform the audit of the City's FY 2003 basic financial statements, which are included in the CAFR, before the FY 2003 CAFR is finalized and issued. The preliminary estimate for the cost to perform the audit was anticipated to be approximately \$500,000, however given the actual expenditures to date and the estimated cost to complete the audit, the City Manager is requesting that the City Council authorize an amendment with KPMG for an additional \$300,000 for a total contract amount of not to exceed \$800,000.

Ewell/LI

Aud. Cert. 2401178.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-108: Lease Agreement with San Diego State University Foundation (SDSUF) for the Development, Operation, and Maintenance of a Laboratory Research Facility.

(Peninsula Community Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1404)

Authorizing the City Manager to execute a lease agreement with San Diego State University Foundation for the development, operation, and maintenance of a laboratory research facility, for a term expiring January 18, 2031, at no rent plus administrative cost recovery.

**CITY MANAGER SUPPORTING INFORMATION:**

On January 18, 2001, the U. S. Department of Health and Human Services deeded a 7.9 acre parcel at the Naval Training Center (NTC) to the City via a Public Benefit Conveyance. The City developed its new Metropolitan Wastewater Department (MWWD) Environmental Monitoring & Technical Services Lab on a portion of the parcel, and the City wishes to lease approximately two acres of the remaining parcel to SDSUF to develop and operate a research complex (40,000 sq. ft.) and an outdoor Seawater Lab (11,500 sq. ft.). SDSUF's costs for developing the premises will be approximately \$7.6 million, which is its consideration to City for executing the lease. SDSUF and USGS will conduct collaborative research on the premises and share information with MWWD.. The approved uses are in compliance with the deed restrictions of the public conveyance and the Council-approved San Diego Reuse Plan for NTC.

The lease is for approximately 26.5 years, expiring on January 18, 2031, with an option for SDSUF to negotiate an extension for an additional unspecified term with the City, with similar terms and conditions of the original term, providing the original circumstances of the lease have not changed that would require modification of the lease.

SDSUF will pay its share of all costs for developing and maintaining improvements shared with MWWD and for developing Esplanade Park, during the lease term, which will result in SDSUF paying the City's Clean Water Program Fund 41509, \$364,537.57 in 2004 with future additional payments, as required.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-108: (Continued)

**CITY MANAGER SUPPORTING INFORMATION:** (Continued)

City staff estimates the current annual market rent is approximately \$237,600, which was determined by updating the data in a 2003 appraisal of the premises performed by an independent MAI appraiser. Based on the new proposed Nonprofit Policy, SDSUF will be charged an annual Administration Fee of \$2,621, with annual CPI adjustments.

**FISCAL IMPACT:**

FY 2005, \$364,537.57 to Fund 41509; and a minimum of \$2,621 annually to Fund 100.

Herring/Griffith/DLD

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-109: Drainage Easement Vacation within a Portion of Parcel 2 of Parcel Map 18040.

(Mission Valley Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-6)

Vacating the City's interest in the drainage easement located within a portion of Parcel 2 of Parcel Map No. 18040, to unencumber this property and facilitate development of the site under the procedure for the summary vacation of public service easements, Section 8330 et. seq. of the California Streets and Highways Code.

**CITY MANAGER SUPPORTING INFORMATION:**

City Council action is requested to vacate a portion of a drainage easement within Parcel 2 of Parcel Map 18040 as shown on Engineering Drawing No. 19597-B. This site is located in the Mission Valley Community Plan area, between I-5 and SR-163, southerly of Hotel Circle South in Council District 6.

The easement being vacated is on private property and was acquired at no cost to the City. The applicant has obtained a building permit with new building design which required the re-location of a drainage line. This re-location, as shown on Engineering Drawing No. 31302-D, has been completed, making this existing easement unnecessary. There is no present or anticipated future use for the easement in its present location. A drainage easement of approximately equal value as shown on Engineering Drawing No. 19554-B has been acquired. Staff has reviewed the request and recommends approval of the vacation.

**FISCAL IMPACT:**

None.

Loveland/Broughton/GRB



ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-110: Amended Map of Nobel Research Park Including Sewer, Drainage, General Utility, and Access Easement Vacations.

(Located northwesterly of Nobel Drive and Judicial Drive. University Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-4)

Approving amended map of Nobel Research Park.

**CITY MANAGER SUPPORTING INFORMATION:**

This 42.629-acre map proposes 16 lots, 15 for commercial purposes and 1 for open space. This map is located in the University Community Plan area, northwesterly of Nobel Drive and Judicial Drive in Council District 1.

This map requires City Council approval because a sewer easement, drainage easement and general utility and access easements are being vacated on the map. The sewer easement and drainage easement were granted by separate document, the general utility and access easements were granted on Nobel Research Park Map No. 14728, all at no cost to the City, and the City has no fee interest. None of these easements have been used, and there is no future or anticipated use for these easements in their current locations. New drainage and sewer easements are being granted on the Amended Map. A Substantial Conformance Review has been approved, which allows the reconfiguration of the original lots, revising the traffic circulation so that the general utility and access easements are no longer required. The public improvements required for the project conform to the new map, and are shown on Engineering Drawing No. 31863-1-41-D, for which an engineering permit has been issued. This map does not allow for greater development density; therefore, there is no expected traffic impact. There are no park fees due in connection with this project.

Staff recommends approval.

Loveland/Broughton/GRB

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-111: Parcel Map W.O. No. 421268 and Building Restricted Easement Vacation.

(Black Mountain Ranch Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-5)

Approving Parcel Map W.O. No. 421268, being a lot line adjustment of lots 18, 19, and 35 of Black Mountain Ranch Unit No. 6, Map No. 14255;

Declaring that a portion of the building restricted easement granted to the City of San Diego per Map No. 14255 within Parcel 2 is not shown with the Parcel Map because it is vacated pursuant to Section 66445(j) of the Subdivision Map Act.

**CITY MANAGER SUPPORTING INFORMATION:**

This parcel map proposes a lot line adjustment of a 5.207 acre site into three parcels for residential development. It is located in the Black Mountain Ranch Community Plan area, southwesterly of San Dieguito Road and Carmel Valley Road in Council District 1. This map requires City Council approval because a portion of a building restricted easement is being vacated on the map.

The building restricted easement being vacated was granted on Map No. 14255 at no cost to the City. During the final mapping stages of the Santa Luz project, some custom lots were consolidated to accommodate the market. A Substantial Conformance Review was completed and approved to allow development of these consolidated lots. One lot within the development, Lot "G" was formally a Property Owner's Association lot with a building restricted easement placed on it at the discretion of the developer; this was not a City requirement. When this lot was approved as a building lot, it became necessary to vacate the building restricted easement. Staff has determined that this revised project is consistent with all previously approved permits, and the City Engineer has approved the parcel map. This lot line adjustment map does not create any new lots, or greater development density. Therefore, there is no expected traffic impact. There are no park fees due in connection with this project.

Loveland/Halbert/GRB

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-112: General Utility and Access Easement Vacations in Amended Map of Black Mountain Ranch Unit No. 1.

(Black Mountain Ranch Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-3)

Vacating the general utility and access easements located within Lots 91, 93, 95, 97, 119, 121, 123, 125, 192, 194, 196, 198, 200, 202, 204, 206, 212, and 214 of Amended Map of Black Mountain Ranch Unit 1, Map No. 14307 to unencumber the property and facilitate development of the site under the procedure for the summary vacation of public easements, Section 8330 et. seq. of the California Streets and Highways Code.

**CITY MANAGER SUPPORTING INFORMATION:**

City Council action is requested to vacate general utility and access easements in Lots 91, 93, 95, 97, 119, 121, 123, 125, 192, 194, 196, 198, 200, 202, 204, 206, 212, and 214 of Amended Map of Black Mountain Ranch Unit No. 1, Map No. 14307 as shown on Engineering Drawing No. 00082-C. These properties are located southwesterly of San Dieguito Road and Black Mountain Road in the Black Mountain Ranch Community Plan area in Council District 1.

These general utility and access easements are on private property. The applicant requests that the easements be vacated in order to better utilize the lots. The applicant has amended the original subdivision map to provide larger lots, and in doing so re-designed the utility layout and access to the lots via private drives, making the existing utility and access easements unnecessary. Due to this relocation of the utilities to the private drives, no new easements are required. The easements were acquired at no cost to the City, and were never used for the purpose for which they were intended. There is no present or anticipated future use for the easements in their present locations. These general utility and access easement vacations are consistent with all previously approved permits.

Staff recommends approval of the vacations.

Loveland/Broughton/GRB

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-113: Via Alicante Storm Drain Replacement.

(University Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-14)

Authorizing the City Manager to execute the Permit, which includes the following indemnification provision:

“The City shall defend, indemnify and save Permitter free and harmless from and pay in full, any and all claims, demands, losses, damages or expenses (“Claims”) that the Permitter may sustain or incur in any manner resulting from the City’s acts or omissions during entry onto the Property for the purpose of performing the Work authorized by this Permit, including, without limitation, any Claims arising from disturbance of coastal sage scrub and wetlands habitat existing on the Property at the time of the City’s entry, or any failure by the City to comply with any applicable Storm Water Pollution Prevention Plan, National Pollution Discharge Elimination System permit or other applicable environmental regulations or permits.”

**CITY MANAGER SUPPORTING INFORMATION:**

In the Spring of 2001, a failure occurred in a section of 180-inch diameter multiplate steel storm drainpipe beneath Via Alicante just east of Gilman Drive. A sinkhole developed in the street, necessitating emergency repair of the pipe. This repair was completed in May 2001, but was only temporary in nature. A portion of the pipe had to be supported with steel I-beam braces that are still in place. Other areas that have not yet failed are extensively corroded. A project has been designed and advertised to remove the corroded and failed sections of 180" steel pipe and replace them with a 14 ft. x 14 ft. reinforced concrete box culvert. The work will require open trenching, for the most part within the Via Alicante right-of-way, but extending southward approximately 40 feet into a privately owned open space area. A permit to do work on private property has been approved in form by the City Attorney and has been signed by the property owner. The permit contains a clause to indemnify the property owner in any damage to the Property or any third parties during completion of the project.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-113: (Continued)

**FISCAL IMPACT:**

There is no fiscal impact with this action.

Mendes/Boekamp/JB

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-114: Appointments to the Sustainable Energy Advisory Board.

(See memorandum from Mayor Murphy dated 6/28/2004, with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-20)

Council confirmation of the following appointments by the Mayor of the City of San Diego, to serve as alternates on the Sustainable Energy Advisory Board, for terms ending March 1, 2006:

NAME

CATEGORY

Adam A. Browning

Alternate (At Large)

Timothy Golba

Alternate (At Large)

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-115: Excusing Deputy Mayor Toni Atkins from Attending the Regularly Scheduled Rules Committee Meeting of July 14, 2004.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-30)

Excusing Deputy Mayor Toni Atkins from attending the regularly scheduled July 14, 2004 Rules Committee meeting, due to her attendance at the Senior Executive State and Local Government program at the Harvard School of Government for their three week intensive training.

- \* ITEM-116: Bridget J. Wilson Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-31)

Recognizing the hard work, dedication, and unparalleled community service of Bridget J. Wilson, and commends her for her more than 30 years of activism in the gay, lesbian, bisexual, and transgender community in San Diego and nationwide;

Proclaiming July 11, 2004 to be "Bridget J. Wilson Day" in the City of San Diego.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-117: Emilee Watts Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-32)

Congratulating Emilee Watts on 30 years of outstanding commitment and service to the youth of San Diego;

Proclaiming July 16, 2004 to be "Emilee Watts Day" in the City of San Diego.



ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-118: Two actions related to Amendment to the Undergrounding of Utilities 2003 Calendar Year Annual Allocation, and Calling for a Public Hearing: Tennyson Street from Chatsworth Boulevard to Willow Street.

(Midway Community Plan Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-25)

A Resolution modifying by removing the project known as "Garrison Street" (from Clove Street to Rosecrans Street), estimated at \$925,000, and replacing it with the project known as "Tennyson Street" (from Chatsworth Boulevard to Willow Street and Sterne Street from Tennyson Street to Willow Street), estimated at \$1,113,078.

Subitem-B: (R-2005-26)

Calling a public hearing to determine whether the public health, safety or general welfare requires the formation of Underground Utility Districts financed through the City of San Diego Undergrounding Surcharge Fund.

~~Subitem C: (R-2005-28)~~

~~Certifying that the Addendum to Environmental Impact Report LDR No. (23247(a), on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resource Code section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Tennyson Street from Chatsworth Boulevard to Willow Street and Sterne Street from Tennyson Street to Willow Street Underground Utility District.~~

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-118: (Continued)

~~That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.~~

**CITY MANAGER SUPPORTING INFORMATION:**

The proposed action to amend the 2003 annual allocation is made at the request of Council District 2 and is in accordance with Council Policy 600-08. The Tennyson Street underground project is being coordinated with a City CIP project to replace concrete streets to prevent the future trenching of the new concrete streets. The formation of Tennyson Street and Chatsworth Boulevard to Willow Street and Sterne Street from Tennyson Street to Willow Street Underground Utility District will require the removal and/or underground conversion of certain overhead power and communications wires with poles within the established boundary. The expense of the underground installation and removal of overhead facilities within the right-of-way (street and sidewalk area) will be the responsibility of the utility companies in accordance with California Public Utilities Commission Rules.

It is the responsibility of the individual property owner(s) for the trenching and other related work to convert their property to receive electrical, telecommunication and cable television from an underground service. However, San Diego Gas and Electric will offer to property owner(s) within the Underground Utility Districts, to perform all the work necessary to convert private property, including necessary conduits for telephone and cable facilities at no cost to the property owner(s). In order to take advantage of San Diego Gas and Electric's offer to perform this work, property owners are required to sign a Permit to Enter Form.

**FISCAL IMPACT:**

SDG&E Cost: The amount of \$925,000 was previously authorized for the project known as Garrison Street from Clove Street to Rosecrans Street as part of the FY03 Annual Allocation (Case 8209). This action would replace the Garrison Street Project with a project known as the Tennyson Street from Chatsworth Boulevard to Willow Street and Sterne Street from Tennyson Street to Willow Street. The construction cost of \$1,113,078 will be financed through the use of SDG&E Annual Allocation Funds as directed by the Public Utilities Commission (Case 8209). The fiscal impact of \$18,000 to the City is the indirect cost of such street light replacement, and other related work. These funds will be available in Fund No.30100, Undergrounding Surcharge Fund, contingent upon receipt of funds from San Diego Gas & Electric. The expenditure has been previously approved by R-295894. No additional expenditure authorization is required as part of this action.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-119: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-1107)

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

- \* ITEM-120: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-1317)

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-121: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-1358)

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

**CITY MANAGER SUPPORTING INFORMATION:**

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

- \* ITEM-122: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-1231)

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

ADOPTION AGENDA, DISCUSSION, COMMITTEE ITEMS

COMMITTEE ON LAND USE AND HOUSING,  
RESOLUTIONS:

ITEM-150: Two actions related to the Otay Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2005.

(See City Manager Report CMR-04-128; Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2005 Draft; Rob Hixson's 6/15/2004 letter. Otay Mesa Community Area. District-8.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2004-1308)

Approving the document entitled "Otay Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2005".

Subitem-B: (R-2004-1309)

Resolution of Intention to designate an area of benefit in Otay Mesa and setting the time and place for holding a public hearing thereon.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 6/16/2004, LU&H voted 5 to 0 to approve the City Manager's recommendation. (Councilmembers Peters, Zucchet, Lewis, Frye and Inzunza voted yea.)

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

ORDINANCE TO BE INTRODUCED WITH RESOLUTION TO BE ADOPTED:

ITEM-200: Two actions related to Seventh and Eighth Supplementals to the Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium (Qualcomm Stadium) Between City of San Diego and San Diego Chargers.

(See City Manager Report No. 04-147. Mission Valley Community Area. Districts-All.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2005-4 Cor. Copy)

Introduction of an Ordinance authorizing and directing the City Manager to execute the Eighth Supplement to the Agreement;

Authorizing and directing the City Manager to execute an appropriate mutual release and agreement for the dismissal of the Litigation, if the Eighth Supplement is executed by the City Council and the Chargers;

Authorizing and directing the City Manager and City Attorney to take such actions as may be necessary or appropriate to implement the intent and purposes of this ordinance and the Eighth Supplement.

Subitem-B: (R-2005-29)

Authorizing and directing the City Manager to the Seventh Supplement to the Agreement, which shall extend the Negotiating Period to and including August 1, 2004;

Authorizing and directing the City Manager to take any necessary or appropriate actions to implement the intent and purposes of this resolution.

PUBLIC NOTICES:

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-250: **Notice** of Pending Final Map Approval - Prado Terrace.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "Prado Terrace" (T.M. No. 72998), located northwesterly of Fourth Avenue and Fir Street in the Centre City Community Planning Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

PUBLIC NOTICE: (Continued)

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-251: **Notice** of Pending Final Map Approval – 4375 37<sup>th</sup> Street.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4375 37<sup>th</sup> Street” (T.M. No. 71506, W.O. No. 422647), located southeasterly of Meade Avenue and 37<sup>th</sup> Street in the Greater North Park Community Planning Area in Council District 3. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.



PUBLIC NOTICE: (Continued)

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-252: **Notice** of Pending Final Map Approval – Spinnaker Point.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Spinnaker Point” (T.M. No. 89-0739), located southeasterly of Palm Avenue and Ocean View Hills Parkway in the Otay Mesa Community Planning Area in Council District 8, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

PUBLIC NOTICE: (Continued)

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-253: Settlement of Property Damage Claim of Marilyn and Frank Wyatt.

(R-2004-1344)

Adopted as Resolution R-299354.

A Resolution approved by the City Council in Closed Session on Tuesday, June 15, 2004, by the following vote: Peters-not present; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-not present; Mayor-yea.

Authorizing the City Manager to pay the sum of \$273,413.51, in complete settlement of each and every claim against the City of San Diego, its agents and employees, resulting from the property damage claim of Marilyn and Frank Wyatt which occurred on March 4, 2003;

Authorizing the City Auditor and Comptroller to issue two checks, one in the amount of \$59,936.57 made payable to Marilyn and Frank Wyatt, and one in the amount of \$164,289.28 made payable to Luth and Turley, Inc.

Aud. Cert. Nos. 2401139 and 2401140.

**NOTE:** This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

PUBLIC NOTICE: (Continued)

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

## ITEM-254: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the November 2, 2004 election:

| <u>DAY</u> | <u>DATE</u>          | <u>DAYS<br/>BEFORE<br/>ELECTION</u> | <u>EVENT</u>   |
|------------|----------------------|-------------------------------------|--|
| Friday     | 5/28/2004            | 158                                 | LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee. |
| Wednesday  | 6/16/2004            | 139                                 | Rules Committee review of ballot proposals.  |
| Monday     | 6/21/2004            | 134                                 | Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.  |
| Monday     | 6/28/2004            | 127                                 | Council adopts propositions for ballot; directs City Attorney to prepare ordinances.   |
| Monday     | through<br>7/19/2004 | to<br>106                           |  |
| Monday     | 7/26/2004            | 99                                  | Council adopts ordinances prepared by City Attorney.   |
| Friday     | 8/06/2004            | 88                                  | Last day for City Clerk to file with Registrar of Voters all elections material.   |
| Thursday   | 8/19/2004            | 75                                  | Last day to file ballot arguments with City Clerk.   |

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

PUBLIC NOTICE: (Continued)

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-255: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS

For propositions approved by the Council for submittal to the qualified voters of the City of San Diego at the Municipal General Election to be held on Tuesday, November 2, 2004, the City Clerk has fixed 5:00 p.m. on Thursday, August 19, 2004, as a reasonable date prior to such election after which no arguments for or against City Propositions may be submitted to the Clerk.

Any argument for or against any City proposition shall not exceed 300 words in length and may be filed by the Council, or any member or members of the Council authorized by the Council, or the bona fide sponsors or proponents of the measure, or any bona fide association of citizens or individual voter, or any combination of voters and associations.

All arguments must be accompanied by a statement signed by each author that the argument is true and correct to the best of his/her knowledge and belief. (Forms for this statement are available in the Office of the City Clerk.)

An argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk.

Arguments shall be submitted to the City Clerk at the Office of the City Clerk, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, California, 92101.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT